

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re: Thomas Gerard Shimota

Case No. 23-31016

RECEIVED

Debtor(s).

NOTICE OF HEARING AND MOTION

JUN - 9 2023

TIME: 4:02 p.m.

TO: The debtor(s) and other entities specified in Local Rule 9013-3.

**CLERK, U.S. BANKRUPTCY COURT
ST. PAUL, MINNESOTA**

1. Thomas Gerard Shimota, Debtor, moves the court for the relief requested below and gives notice of hearing.
2. The court will hold a hearing on this motion before the Honorable Judge Kesha L. Tanabe at 11:00 am on June 28 in Courtroom No. 2C, at the United States Courthouse, at 316 North Robert Street, in St. Paul, Minnesota 55101.
3. Any response to this motion must be filed and served not later than five days before the time set for the hearing (including Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
4. This court has jurisdiction over this motion pursuant to 28 USC 157 and 1334, FRBP 5005 and Local Rule 1070-1. The petition commencing this chapter 13 case was filed on May 22, 2022. The case is now pending in this court.
5. This motion arises under 11a US Code Court Rule 6009, prosecution of Proceedings by Debtor. This motion is filed under FRBP 9013-1 Motion Practice and Motion for Relief from stay, Rule 4001-1 governed by 9013-1 as to Debtor, Thomas Shimota, only. Movant requests relief with respect to:

Relief from automatic stay as to debtor only to continue proceedings in State of Minnesota, Court of Appeals, District Court Case No 70-cv-18-6768, Appellate Court Case No. A23-0776, In re Thomas Shimota, Petitioner v. Elizabeth Shimota, Petition for Writ of Prohibition or in the Alternative, Writ of Mandamus Directed to Scott County District Court and Officers of the Court, and For Emergency Stay of Sale of Business, B&T Investments, LLC, dated May 25, 2023.

Per FRBP 9013, the grounds for the Motion is that proceedings are pending in the District court to vacate orders obtained by Elizabeth Shimota as fraud on the Court pursuant to MRCP Rule 60.02 to vacate her judgement of October 6, 2022 and December 9, 2022 and related matters.

Wherefore, Thomas Shimota moves the court for an order that he continue with proceedings in State of Minnesota, Court of Appeals, District Court Case No 70-cv-18-6768, Appellate Court Case No. A23-0776, In re Thomas Shimota, Petitioner v. Elizabeth Shimota, Petition for Writ of Prohibition or in the Alternative, Writ of Mandamus, and such other relief as may be just and equitable.

Dated: June 9, 2023

Signed: Thomas Gerard Shimota
Thomas Gerard Shimota
2800 130th Street W
Rosemount, MN 55068
612-532-4386
tshimota@hotmail.com

Verification. I, Thomas Gerard Shimota, the moving party, named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on: JUNE 9, 2023

Signed: Thomas Gerard Shimota
Thomas Gerard Shimota